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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,805	07/12/2006	Tominaga Koji	FUJ0001US	3990
23413 7590 07/11/2011 CANTOR COLBURN LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER				
LUKE, DANIEL M				
ART UNIT		PAPER NUMBER		
2813				
NOTIFICATION DATE		DELIVERY MODE		
07/11/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

Office Action Summary

Application No.

10/550,805

Applicant(s)

KOJI ET AL.

Examiner

DANIEL LUKE

Art Unit

2813

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to the RCE filed 1/24/2011.

Currently, claims 1-9 and 13-21 are pending.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 5/14/2010 was filed after the mailing date of the non final office action on 1/21/2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paranjpe et al. (US 2003/0003635).

Pertaining to claim 1, Paranjpe shows a method of forming an insulating film in a semiconductor device, the method comprising: sequentially repeating a plurality of times: forming a partial insulating film ([0031]), and removing impurities from the partial insulating film ([0034]; [0011], lines 8-9).

With regards to the thickness of each partial insulating film, although Paranjpe discloses that the anneal is performed when the partial insulating film is at a thickness of 25-50 Å ([0009], line 15), Paranjpe also discloses that the anneal is performed every 25 to 50 ALD cycles at 0.8 Å per cycle ([0009], lines 16-17). 25 cycles at 0.8 Å per cycle equates to a thickness of 20 Å, or 2 nm. Although the upper limit of the claimed range is “less than” 2 nm, the court has held that a *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985). In this case, the claimed range is infinitesimally close to the prior art range.

In addition, throughout the reference, Paranjpe discloses performing an anneal every 25 to 50 cycles. Since Paranjpe discloses that the thickness of each partial insulating film is 0.8 Å per cycle, one of ordinary skill in the art would arrive at the claimed invention by performing an anneal after the minimal number of cycles disclosed by Paranjpe (see [0012], lines 15).

With regards to the temperature of the removing impurities step, Paranjpe discloses that the step may be performed at an elevated temperature ([0034], lines 9-13). Although Paranjpe does not disclose that this temperature is greater than 500°C, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Paranjpe by using a temperature greater than 500°C, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

And finally, although Paranjpe does not explicitly show that residual carbon is amongst the impurities removed, one of ordinary skill in the art recognizes that since the precursor

comprises carbon and the final film is over 99% pure Al_2O_3 , carbon must have been amongst the impurities removed.

As it pertains to claim 8, and as previously discussed, Paranjpe allows for a partial insulating film thickness of 2 nm.

As it pertains to claims 13 and 14, although not explicitly shown by Paranjpe, one of ordinary skill in the art recognizes that the annealing processes of Paranjpe will cause desorption of different carbon-containing compounds, including CO_2 .

Pertaining to claims 15 and 16, Paranjpe shows forming the partial insulating film comprises depositing trimethyl aluminum ([0030], lines 3-6).

Pertaining to claim 17, Paranjpe shows that water vapor is used as an oxidant for the precursor ([0031], lines 1-6).

Claims 2-7, 9, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paranjpe in view of Colombo et al. (US 2005/0136690).

Paranjpe teaches the method of claim 1.

Pertaining to claim 9, Paranjpe shows a method of forming an insulating film in a semiconductor device, the method comprising: sequentially repeating a plurality of times: forming a partial insulating film ([0031]), and removing impurities from the partial insulating film ([0034]; [0011], lines 8-9).

Pertaining to claim 21, Paranjpe shows a method of forming an insulating film in a semiconductor device, the method comprising: sequentially repeating a plurality of times: forming a partial insulating film by atomic layer deposition employing an Al precursor, an Hf

precursor, or a combination comprising at least one of the foregoing precursors ([0030], lines 1-6), while employing water vapor gas as oxidant ([0031], lines 1-6); and removing impurities from the partial insulating film ([0034]; [0011], lines 8-9).

Although Paranjpe does not explicitly show the thickness of the partial insulating film or the temperature at which removing impurities is performed, or that the impurity removed comprises residual carbon, these limitations are either suggested by Paranjpe or are obvious, as indicated in the rejection of claim 1 above.

Paranjpe fails to show, pertaining to claim 2, removing impurities is performed in a reducing gas atmosphere; and, pertaining to claims 3, 9 and 21, that removing impurities comprises a first treatment in a reducing gas atmosphere and a second treatment in an oxidizing gas atmosphere. Pertaining to claims 4-7 and 18, Paranjpe fails to show the possible gases that make up the reducing and oxidizing gas atmospheres.

However, Colombo teaches in [0013] – [0014] that a high-k dielectric film is subjected to two anneals, both at temperatures in the range of 500°C to 1100°C. The first anneal is performed in a reducing gas atmosphere ([0013], lines 1-4). The reducing gas atmosphere may comprise, for example, hydrogen ([0013], lines 7-8). The second anneal is performed in an oxidizing gas atmosphere ([0014], lines 1-4). The oxidizing gas atmosphere may comprise, for example, oxygen. These anneals act to remove impurities from the dielectric film ([0011]), specifically carbon that is a result of using a metalorganic precursor ([0010], lines 5-8).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to perform the step of removing impurities in the method of Paranjpe by a two-step anneal process in which the first anneal is performed in a reducing gas atmosphere and the

second anneal is performed in an oxidizing gas atmosphere, as taught by Colombo. The motivation to do so is that the anneal process taught by Colombo reduces point defects and impurities in the dielectric film ([0005]).

As it pertains to claims 19 and 20, Paranjpe shows that the method is repeated until a desired thickness is achieved ([0031], lines 22-23). Although Paranjpe does not show that the method is repeated three or eight times, as claimed, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Paranjpe by repeating the method the claimed number of times, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Arguments

Applicant's arguments filed 1/24/2011 have been fully considered but they are not persuasive.

Applicant argues that the lowest possible thickness taught by Paranjpe of 2 nm is outside the claimed range of $0.3 \text{ nm} \leq A < 2 \text{ nm}$, and thus Paranjpe does not teach or suggest the claimed range of the insulating film thickness.

However, as discussed in the 35 U.S.C. 103(a) rejection of claim 1 above, the court has held that a *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985). In this case, the claimed range is infinitesimally close to the prior art range.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LUKE whose telephone number is (571)270-1569. The examiner can normally be reached on Monday through Friday 9:00 a.m. to 5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Landau can be reached on (571) 272-1731. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. L./
Examiner, Art Unit 2813
7/1/2011

/Matthew C. Landau/
Supervisory Patent Examiner, Art Unit
2813